STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES Land Division Honolulu, Hawaii 96813

July 14, 2006

Board of Land and Natural Resources State of Hawaii Honolulu, Hawaii

PSF No.:05KD-231

Kauai

Grant of Term, Non-Exclusive Easement to Kawaihau 31 Acres, LLC for Access and Utility Purposes, Kapaa Homesteads 1st Series, Kawaihau, Kauai, Tax Map Key (4) 4-6-007: portion of Parcel 12, in favor of Parcel 17.

APPLICANT:

Kawaihau 31 Acres, LLC, a Hawaii Limited Liability Company, whose mailing address is P.O. Box 1808, Lihue, HI 96766.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kapaa situated at Kapaa, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-6-007: portion of 12, as shown on the attached map labeled Exhibit A.

AREA:

EASEMENT "D-1" (15.0 feet wide) 972 square feet, more or less. EASEMENT "D-2" (15.0 feet wide) 634 square feet, more or less.

ZONING:

State Land Use District: Urban County of Kauai CZO: Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Encumbered by RP S-7310 to East Kauai Water Users Cooperative, for the operation, repair and maintenance of irrigation water diversions and transportation infrastructure system including the right to divert, store, take, draw off, conduct away and dispose thereof Government owned water from streams & rivers in the drainage area for irrigation purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over, under and across State-owned land for access and utility purposes.

COMMENCEMENT DATE:

To be determined by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years.

ANNUAL RENT:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing. "

DCCA VERIFICATION:

Place of business registration confirmed: YES Registered business name confirmed: YES Applicant in good standing confirmed: YES

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1) Pay for an appraisal to determine one-time payment;

- Provide survey maps and descriptions according to the Standards for property Surveys on the Hawaii Association of Land Surveyors (HALS) website www.eng.hawaii.edu/~hals and at Applicant's own cost;
- Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department;
- 4) Shall provide construction plans for the access crossing over the ditch prepared by a licensed engineer for structural and drainage adequacy.

REMARKS:

The irrigation ditch and tunnel is a portion of Ditch 8B, currently under Revocable Permit S-7310 to East Kauai Water Users Cooperative, for operation, repair and maintenance.

Applicant is the owner of TMK: (4) 4-6-007:017 and desires an access and utility easement crossing over state owned irrigation tunnel and ditch No. 8B as shown on surveyor map prepared by licensed surveyor Ronald J. Wagner. (Exhibit B)

Legal descriptions of easements are designated as Easement "D-1" (Exhibit C) and Easement "D-2" (Exhibit D).

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Agency comments were solicited from: County Planning Department: No objections Commission on Water Resource Management: No Comments County Department of Public Works:

The request appears to be for utility and access purposes over an existing irrigation ditch in favor of the East Kaua'i Water Company. We are concerned in regards to the access and utility easement across an existing ditch. The application is unclear as to the access and utility crossing over the existing ditch. We would be concerned if the drainage flow from the irrigation ditch is blocked or its storm flow capacity is reduced and causes flooding upstream of the crossing if any is proposed.

Department of Health: No response Historic Preservation Division: No response Office of Conservation and Coastal Lands: No response East Kauai Water Users Cooperative: No response

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal

or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

- 2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (4)4-6-07:17, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
- 3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term non-exclusive easement to Kawaihau 31 Acres LLC covering the subject area for access and utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current term easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (4) 4-6-07:17, provided that when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

Johnne E. McComber Land Agent

APPROVED FOR SUBMITTAL:

Peter T. Young, Chairperson

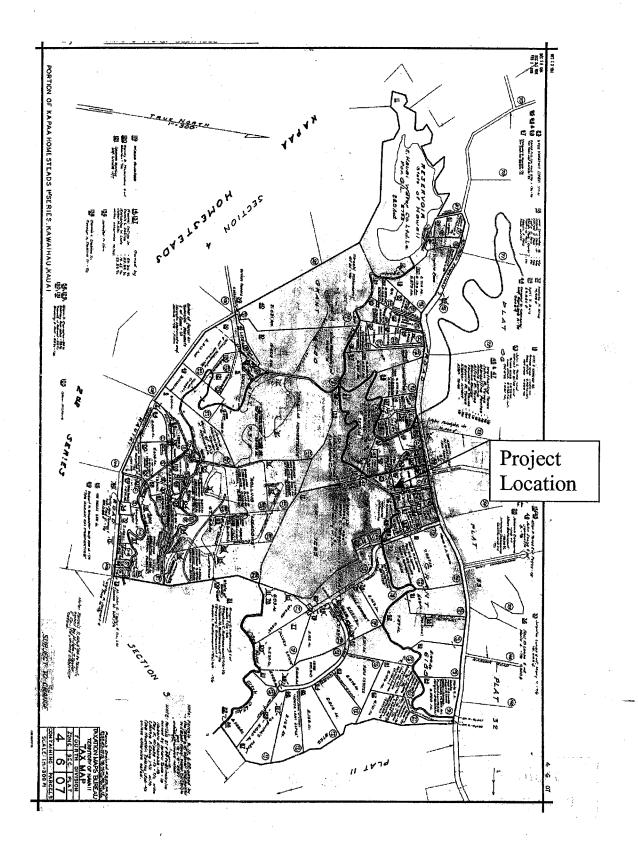


EXHIBIT A

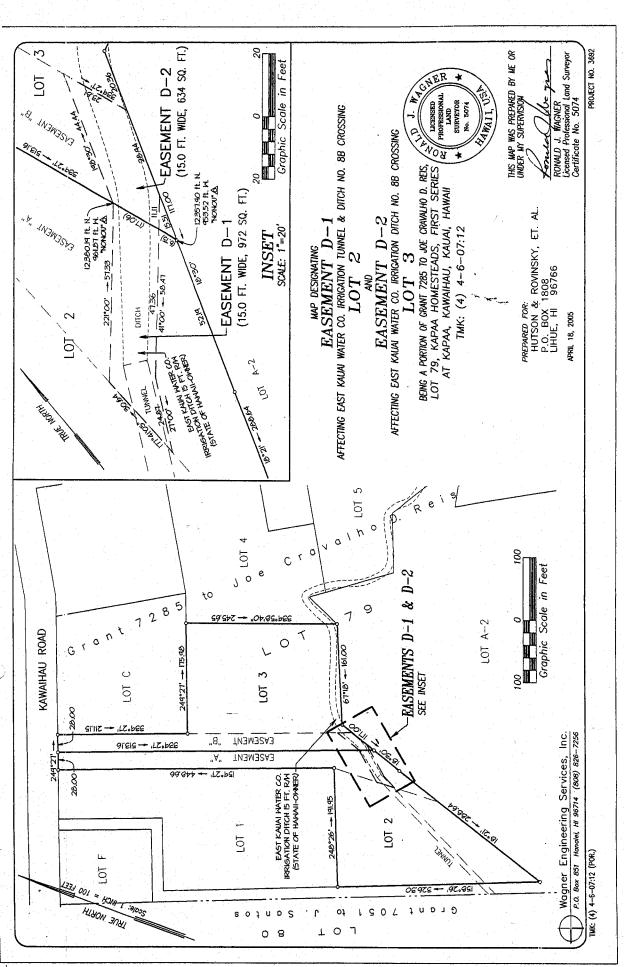


Exhibit B

REDUCED NOT TO 3CALE

Easement "D-1" (15.0 feet wide)

All of that certain parcel of land being an Easement "D-1", 15.0 feet wide, affecting the East Kauai Water Company irrigation ditch 8B (State of Hawaii-Owner) crossing Lot 2, being a portion of Lot 79, Kapaa Homesteads, First Series, Grant 7285 to Joe Cravalho D. Reis at Kapaa, Kawaihau, Kauai, Hawaii and more particularly described as follows:

Beginning at the Northeast corner of this parcel of land on the West boundary of Lot 3, the coordinates of which referred to Government Survey Triangulation Station, "NONOU" being 12,380.19 feet North and 961.87 feet West and running by azimuths measured clockwise from True South:

1.	339° 27'	17.06	feet along the remainder of Lot 79, Kapaa Homesteads, First Series, Grant 7285 to Joe Cravalho D. Reis (Lot 3) and crossing East Kauai Water Company Ditch No. 8 B;
2.	41° 00'	47.36	feet along the remainder of Lot 79, Kapaa Homesteads, First Series, Grant 7285 to Joe Cravalho D. Reis (Lot 2);
3.	27° 00°	24.87	feet along the remainder of Lot 79, Kapaa Homesteads, First Series, Grant 7285 to Joe Cravalho D. Reis (Lot 2);
4.	177° 41' 05"	30.64	feet along the remainder of Lot 79, Kapaa Homesteads, First Series, Grant 7285 to Joe Cravalho D. Reis (Lot 2) and crossing East Kauai Water Company Ditch/Tunnel No. 8 B;

5. 221° 00°

57.33 feet along the remainder of Lot 79, Kapaa Homesteads, First Series, Grant 7285 to Joe Cravalho D. Reis (Lot 2), to the point of beginning and containing an AREA of 972 square feet.



April 27, 2005 P.O. Box 851 Hanalei, Hawaii 96714 WAGNER ENGINEERING SERVICES INC.

Ronald J. Wagner

Licensed Professional Land Surveyor

Certificate No. 5074

Easement "D-2" (15.0 feet wide)

All of that certain parcel of land being an Easement "D-2", 15.0 feet wide, affecting the East Kauai Water Company irrigation ditch 8B (State of Hawaii-Owner) crossing Lot 3, being a portion of Lot 79, Kapaa Homesteads, First Series, Grant 7285 to Joe Cravalho D. Reis at Kapaa, Kawaihau, Kauai, Hawaii and more particularly described as follows:

Beginning at the Northwest corner of this parcel of land on the East boundary of Lot 2, the coordinates of which referred to Government Survey Triangulation Station, "NONOU" being 12,380.19 feet North and 961.87 feet West and running by azimuths measured clockwise from True South:

1.	198° 30'	44.44 feet along the remainder of Lot 79, Kapaa
		Homesteads, First Series, Grant 7285 to Joe
	•	Cravalho D. Reis (Lot 3);

2.	339° 27'	23.81	feet along the remainder of Lot 79, Kapaa
			Homesteads, First Series, Grant 7285 to Joe
			Cravalho D. Reis (Lot 3) and crossing East
			Kauai Water Company Ditch No. 8 B;

3.	18° 30'	28.94	feet along the remainder of Lot 79, Kapaa
			Homesteads, First Series, Grant 7285 to Joe
			Cravalho D. Reis (Lot A-2);

4.	41° 00'	11.11	feet along the remainder of Lot 79, Kapaa
			Homesteads, First Series, Grant 7285 to Joe
			Cravalho D. Reis (Lot 3);

5. 159° 27'

17.06 feet along the remainder of Lot 79, Kapaa Homesteads, First Series, Grant 7285 to Joe Cravalho D. Reis (Lot 2), and crossing East Kauai Water Company Ditch No. 8 B, to the point of beginning and containing an AREA of 634 square feet.



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